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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,262	02/06/2006	Hiroyuki Hidaka	81887.0126	3227
26/021 7590 01/22/2009 HOGAN & HARTSON LLP. 1999 AVENUE OF THE STARS SUITE 1400 LOS ANGELES, CA 90067				
EXAMINER				
ZEIWAR, SAYED T				
ART UNIT		PAPER NUMBER		
2617				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,262

Applicant(s)

HIDAKA, HIROYUKI

Examiner

SAYED T. ZEWARDI

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's arguments filed on 12/30/2008 have been fully considered but they are not persuasive.

2. Applicant argues that

"...Uchida's purpose is to change a transmission rate of the communication data that is communicated/transmitted (i.e., not initial)"

This argument is not persuasive. In the above applicant points only to the abstract while Uchida discloses the change of rate of transmission clearly in many places.

Applicant put emphasize the words "communicated" or "transmitted" which are irrelevant. Uchida discloses an invention similar to that of applicant which is changing the rate of transmission appropriately.

3. Applicant states that claims 1-16 are amended with the limitation of **"an initial transmission rate"** to indicate that it is the initial transmission rate that is determined.

This limitation will not put the application in condition for allowance for two reasons.

First, any communication system with variable transmission rate capability has an initial transmission rate determined. Second, the applicant, in the background of the specification, admits of an initial transmission rate which later changes to an appropriate rate. Applicant is referred to page 3 and paragraphs 2-5. Further applicant is reminded that the claims 1-16 are not amended as the applicant has written in Remarks. Only claims 1-2, 6-7, and 11-13 are amended. Correction is required.

Art Unit: 2617

4. Therefore, the references applied to the claims still disclose all the limitations of the claims of the applicant.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-2, 6-7, and 11-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant's addition of the new limitation, namely "**an initial**" is not disclosed in the specification as it relates to the applicant's invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uchida et al. (US 6,745,049) in view of Hashem et al. (US 6,701,129).

With respect to claim 1, Uchida discloses a wireless communication system configured from a wireless base station and a wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), wherein a wireless communication line is set between the wireless base station and the wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), the wireless base station comprises: a wireless base station transmission rate notify section that notifies the wireless communication terminal of an initial transmission rate that enables to be supported by the wireless base station on the wireless communication line from the wireless communication terminal to the wireless base station (**See Uchida's col.2 lines 14-67**), an inherent initial transmission rate determination section that determines an initial transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station based on a result of comparing the initial transmission rate notified from the wireless base station with the initial transmission rate stored in the storage section (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**). However, Uchida does not specifically disclose the wireless communication terminal comprises: a storage section that stores an initial transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station. But Hashem disclose a wireless terminal with storage section whereat least one

transmission parameters are stored (**See Hashem's col.3 lines 57-67**). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Uchida and combine with Hashem, thereby providing a system wherein transmission parameters are stored in wireless terminal, as disclosed by Hashem (**See Hashem's col.3 lines 57-67**).

With respect to claim 6, Uchida discloses a wireless communication terminal, wherein a wireless communication line is set between a wireless base station and the wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), comprising: a transmission rate information acquisition section that receives an initial transmission rate that enables to be supported by the wireless base station on the wireless communication line from the wireless communication terminal to the wireless base station, notified from the wireless base station (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**); a transmission rate comparison section that compares the initial transmission rate notified from the wireless base station with the initial transmission rate stored in the storage section (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**); and an inherent initial transmission rate determination section that determines an initial transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station based on a comparison result of the transmission rate comparison section (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**). However, Uchida does not specifically disclose the wireless communication terminal comprises: a storage section that stores an initial transmission

rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station. But Hashem disclose a wireless terminal with storage section whereat least one transmission parameters are stored (**See Hashem's col.3 lines 57-67**). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Uchida and combine with Hashem, thereby providing a system wherein transmission parameters are stored in wireless terminal, as disclosed by Hashem (**See Hashem's col.3 lines 57-67**).

With respect to claim 7, Uchida discloses a wireless communication terminal, wherein a wireless communication line set between a wireless base station and the wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), comprising: a terminal transmission rate notify section that notifies the wireless base station of an initial transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station when the wireless base station and the wireless communication terminal exchange their mutual state information (**See Uchida's col.2 lines 14-67,**); and a wireless base station transmission rate broadcast section that notifies the wireless communication terminal of a transmission rate that enables to be supported by the wireless base station on the wireless communication line from the wireless communication terminal to the wireless base station (**See Uchida's col.2 lines 14-67**), an initial transmission rate determination section that determines an initial transmission rate on the wireless communication line from the wireless communication terminal to the

wireless base station based on a determination result as to whether or not the wireless base station enables to support the initial transmission rate notified from the wireless communication terminal **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**.

With respect to claim 11, Uchida discloses a wireless base station, wherein a wireless communication line is set between the wireless base station and a wireless communication terminal **(See Uchida's figure 1 and 2, col.9 lines 37-67)**, for performing communications, comprising: a wireless base station transmission rate notify section that notifies the wireless communication terminal of an initial transmission rate that enables to be supported by the wireless base station on the wireless communication line from the wireless communication terminal to the wireless base station **(See Uchida's col.2 lines 14-67)**.

With respect to claim 12, Uchida discloses a transmission rate control method of a wireless communication system configured from a wireless base station and a wireless communication terminal, wherein a set between the wireless base station and the wireless communication terminal **(See Uchida's figure 1 and 2, col.9 lines 37-67)**, the transmission rate control method includes the steps in which: the wireless base station notifies the wireless communication terminal of an initial transmission rate that enables to be supported by the wireless base station on the wireless communication line from the wireless communication terminal to the wireless base station **(See Uchida's col.2 lines 14-67)**; the wireless communication terminal determines an initial transmission rate on the wireless communication line from the wireless communication

terminal to the wireless base station based on a result of comparing the initial transmission rate notified from the wireless base station with the initial transmission rate stored in the wireless communication terminal (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**). However, Uchida does not specifically disclose the wireless communication terminal stores an initial transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station. But Hashem disclose a wireless terminal with storage section whereat least one transmission parameters are stored (**See Hashem's col.3 lines 57-67**). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Uchida and combine with Hashem, thereby providing a system wherein transmission parameters are stored in wireless terminal, as disclosed by Hashem (**See Hashem's col.3 lines 57-67**).

With respect to claim 13, Uchida discloses a transmission rate control method of a wireless communication system configured from a wireless base station and a wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), wherein a wireless communication line is set between the wireless base station and the wireless communication terminal (**See Uchida's figure 1 and 2, col.9 lines 37-67**), the transmission rate control method includes the steps in which: the wireless communication terminal notifies the wireless base station of an initial transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station when the wireless

base station and the wireless communication terminal exchange their mutual state information **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**; the wireless communication terminal determines an initial transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**; the wireless base station determines whether or not the initial transmission rate notified from the wireless communication terminal enables to be supported **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**; the wireless base station notifies the wireless communication terminal of a determination result of the determination section **(See Uchida's col.2 lines 14-67)**; and the wireless communication terminal determines the transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station based on the determination result notified from the wireless base station **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**.

With respect to claim 2, Uchida discloses a wireless communication system configured from a wireless base station and a wireless communication terminal **(See Uchida's figure 1 and 2, col.9 lines 37-67)**, wherein a wireless communication line is set between the wireless base station and the wireless communication terminal **(See Uchida's figure 1 and 2, col.9 lines 37-67)**, the wireless communication terminal comprises: a terminal transmission rate notify section that notifies the wireless base station of an initial transmission rate required by the wireless communication terminal on

the wireless communication line from the wireless communication terminal to the wireless base station when the wireless base station and the wireless communication terminal exchange their mutual state information (**See Uchida's col.2 lines 14-67**); and an initial transmission rate determination section that determines an initial transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**), and the wireless base station comprises: a determination section that determines whether or not the initial transmission rate notified from the wireless communication terminal enables to be supported (**See Uchida's col.2 lines 14-67**); and a determination result notify section that notifies the wireless communication terminal of a determination result of the determination section (**See Uchida's col.2 lines 14-67**), wherein the initial transmission rate determination section determines the initial transmission rate on the wireless communication line from the wireless communication terminal to the wireless base station based on the determination result notified from the wireless base station (**See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change**).

With respect to claim 3, Uchida discloses a wireless communication system wherein the wireless communication terminal notifies the wireless base station of the transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station when power of the wireless communication terminal is turned on, and determines the transmission rate on the wireless communication line from the wireless

communication terminal to the wireless base station based on the determination result notified from the wireless base station **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change).**

With respect to claim 4, Uchida discloses a wireless communication system wherein the terminal transmission rate notify section notifies the wireless base station of a state information request message including the transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change).**

With respect to claim 5, Uchida discloses a wireless communication system wherein the wireless communication terminal comprises a request transmission rate transmission section **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)** that retransmits a request of a transmission rate lower than the transmission rate required by the wireless communication terminal when the determination result from the wireless base station section shows that the transmission rate does not enable to be supported **(See Uchida's figure 7, col.9 lines 4-5, figure 1).**

With respect to claim 8, Uchida discloses a wireless communication system wherein when power of the wireless communication terminal is turned on, the wireless communication terminal notices the wireless base station of the transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station **(See Uchida's figure 7, col.9 lines 4-5, figure 1, col.4 lines 15-17),** and determines the transmission

rate on the wireless communication line from the wireless communication terminal to the wireless base station based on the determination result noticed from the wireless base station **(See Uchida's figure 7, col.9 lines 4-5, figure 1)**.

With respect to claim 9, Uchida discloses a wireless communication system wherein the terminal transmission rate notify section notifies the wireless base station of a state information request message including the transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**.

With respect to claim 10, Uchida discloses a wireless communication terminal comprising: an inherent request transmission rate transmission section that retransmits a request of a transmission rate lower than the transmission rate required by the wireless communication terminal when the determination result from the wireless base station section shows that the transmission rate does not enable to be supported **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change)**.

With respect to claim 14, Uchida discloses a transmission rate control method wherein the wireless communication terminal notifies the wireless base station of the transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station when power of the wireless communication terminal is turned on **(See Uchida's figure 1 and 2, col.9 lines 37-67)**, and determines the transmission rate on the

wireless communication line from the wireless communication terminal to the wireless base station based on the determination result notified from the wireless base station **(See Uchida's figure 1 and 2, col.9 lines 37-67).**

With respect to claim 15, Uchida discloses a wireless communication system wherein the terminal transmission rate notify section notifies the wireless base station of a state information request message including the transmission rate required by the wireless communication terminal on the wireless communication line from the wireless communication terminal to the wireless base station **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change).**

With respect to claim 16, Uchida discloses a wireless communication system wherein the wireless communication terminal retransmits a request of a transmission rate lower than the transmission rate required by the wireless communication terminal when the determination result from the wireless base station section shows that the transmission rate does not enable to be supported **(See Uchida's figure 7, col.9 lines 4-5 where the mobile station requests rate change, figure 1).**

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAYED T. ZEWARDI whose telephone number is (571)272-6851. The examiner can normally be reached on 8:30-4:30.

Art Unit: 2617

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G. Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sayed T Zewari/
Examiner, Art Unit 2617

January 15, 2009

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617